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JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1966

No. 1386

ADAM CLAYTON POWELL, JR., *et al.*,

Plaintiffs-Petitioners,

against

JOHN W. McCORMACK, *et al.*,

Defendants-Respondents.

BRIEF OF THE CORPORATION COUNSEL OF THE CITY OF NEW YORK AS AMICUS CURIAE IN SUPPORT OF THE GRANTING OF CERTIORARI

J. LEE RANKIN,
Corporation Counsel of the City of New York.

NORMAN REDLICH,
ROBERT T. HARTMANN,
of Counsel.

32 CASE PRESS INC., 421 HUDSON ST., N.Y.—OREGON 5-4540

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Interest of the *Amicus Curiae*

The Corporation Counsel of the City of New York, State of New York, being the authorized law officer thereof, has an essential interest in the representation of the citizens of the 18th Congressional District of the State of New York in the 90th Congress. The 18th Congressional District is entirely situated in the County and City of New York.

House Resolution 278 in the House of Representatives, approved March 1, 1967 resolved that Congressman Pow-

ell "is excluded from membership in the 90th Congress." Congressman Powell was subsequently re-elected on April 11, 1967. This petition pertains to the exclusion of March 1, 1967, as a result of which the citizens of the 18th Congressional District could continue to be deprived of their representation in this Congress.

Pursuant to Rule 42 of the Rules of this Court, the Corporation Counsel of the City of New York appears as *amicus curiae* in support of the granting of certiorari in this action involving the deprivation of fundamental representation in Congress.

ARGUMENT

Since there is a danger of continuing deprivation of the fundamental right of the citizens of the 18th Congressional District to representation in Congress, this Court should grant certiorari to the petitioners.

The constitutional right of a citizen to vote, elect and be represented by a legislator of his choice has been well established. *Ex parte Yarborough,* 110 U. S. 651 (1883); *United States* v. *Mosley,* 238 U. S. 383 (1915); *United States* v. *Classic,* 313 U. S. 299 (1941), rehearing denied, 314 U. S. 707 (1941). As a result of House Resolution 278, the citizens of the 18th Congressional District have been deprived of their elected representative in the 90th Congress and this resolution could bar Congressman Powell from the 90th Congress again, even though he has been re-elected.

This vital issue of continuing deprivation of representation in Congress makes it essential for this Court to grant certiorari to the petitioners and to expedite the hearing and determination pursuant to Rule 20 of this Court.

CONCLUSION

We respectfully join in the request of petitioners that this Court grant certiorari.

May 19, 1967
New York, New York

Respectfully submitted,

J. LEE RANKIN,
Corporation Counsel
of the City of New York.

NORMAN REDLICH,
ROBERT T. HARTMANN,
of Counsel.